

COALITION TO PASS HEALTH CARE REFORM AND STOP STUPAK!



STOP STUPAK ABORTION COVERAGE BAN

Health Care Reform Must Not Restrict Women's Ability to Purchase Private Coverage for Abortion

On November 7, 2009, the U.S. House of Representatives passed a last-minute anti-choice amendment offered by Rep. Bart Stupak (D-MI-01) to the House health care reform bill that would effectively ban private abortion coverage for millions of women in the United States, even if they are paying for the full cost of coverage. The Stupak ban violates the most fundamental principle of health care reform — as articulated by President Obama — that no one will lose the benefits they currently have.

Existing federal policy on abortion coverage does not restrict private dollars from paying for abortion coverage.

- Under the Hyde amendment, in place since 1977, federal funds cannot be used to pay for abortion under the Medicaid program, except in cases of rape, risk to the woman's life, or incest. However, states are allowed to use their own funds to provide abortion coverage beyond the Hyde limitations to Medicaid patients, and 17 states do so. It's important to note that individuals generally do not pay premiums under the traditional Medicaid program.
- Under the Federal Employee Health Benefits (FEHB) Program, existing federal policy does not allow abortion to be included in the health insurance plans that federal employees receive. The federal government administers the FEHB program as an employer and, as such, makes coverage decisions based on the government's employment-based relationship with employees. Because both the employer's (the federal government) contribu-

tion and the employee's contribution toward the premium go into the U.S. Treasury (which then pays health plans), it is difficult to distinguish between these funds.

The Stupak ban upends current law on abortion coverage in the United States by restricting the use of private funds to pay for abortion coverage.

- For the first time in federal law, the Stupak ban restricts what individual private dollars can pay for in the private health insurance marketplace. The Stupak ban stipulates that any health plan receiving any funds under the House version of health care reform cannot cover abortion care, even if such coverage would be paid for using the private premiums that health plans receive directly from individuals (the government pays affordability credits separately to plans as well, so there are two distinguishable pools of funds).
- Simply put: if a health plan wants to offer coverage to individuals that receive affordability credits under the House version of health care reform (no matter how small), that coverage cannot include abortion care. In this way, the Stupak ban doesn't just restrict federal funds; it restricts private funds. In the same vein, it doesn't just affect individuals receiving some amount of affordability credit; it also affects individuals who are paying the entire cost of coverage but who happen to purchase the same health plan as those with affordability credits.

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- The net effect of the Stupak ban is that abortion care will not be covered in the health insurance Exchange. While the Stupak ban claims to allow the sale of unworkable abortion “riders” or additional plans that do not receive any federal funds, the amendment will have one singular outcome: the loss of comprehensive coverage for millions of women. In fact, insurance experts have stated that the Stupak ban makes it “impractical” and unlikely for insurance companies to offer abortion coverage in the newly created insurance Exchange at all.¹
- The Stupak ban rejects existing separation policies in other arenas, such as Charitable Choice. Under Charitable Choice, agencies that promote religion (which is prohibited from being done with federal funds by the Establishment Clause of the United States Constitution) may receive federal funds as long as they segregate those funds from religious activities. Moreover, individuals may direct their federal funds to a religious organization (through a genuine and independent private choice of a beneficiary via a voucher, certificate, coupon, or similar mechanism).⁴ The Stupak ban approach would not allow these religious organizations to get federal funding. In this way, the Stupak ban is in stark contrast to existing federal policy.

The Stupak ban undermines long-standing federal policy related to tax subsidies for abortion care and segregation of federal funds in other arenas.

- The Stupak ban represents a stark contrast to long-standing federal policies related to tax subsidies and abortion coverage. For instance, the \$200 billion tax subsidy for the existing employer-sponsored private health insurance market allows for coverage of abortion. In fact, the majority of private health plans cover abortion today.²
- In addition, Health Savings Accounts (HSAs) — which function as tax-free medical expense accounts for individuals — explicitly include abortion care as a qualified medical expense.³

The Stupak ban could have an industry-wide impact, potentially leading to the elimination of abortion coverage for health plans outside of the Exchange, including the existing employer-based market.

- A recent George Washington University study concludes that the Stupak amendment “will have an industry-wide effect, eliminating coverage of medically indicated abortions over time for all women, not only those whose coverage is derived through a health insurance exchange. As a result, Stupak / Pitts can be expected to move the industry away from current norms of coverage for medically indicated abortions.”⁵

1. Rovner, Julie. “Health Bill Abortion Clause May Derail Insurance,” NPR. <http://www.npr.org/templates/story/story.php?storyId=120406487>

2. While survey measurements (and therefore results) varied, two prominent studies revealed high rates of insurance coverage for abortion services in the private insurance market today. One study showed that 87% of insurers cover abortion services, while the other reported that 46% of all plans provide coverage.

3. Internal Revenue Service, “Publication 502: Medical and Dental Expenses (Including the Health Coverage Tax Credit).” <http://www.irs.gov/pub/irs-pdf/p502.pdf>

4. See 69 Federal Register 42586; 45 CFR Parts 74, 87, 92, and 96.

5. Rosenbaum, Sara, et. al, “An Analysis of the Implications of the Stupak/Pitts Amendment for Coverage of Medically Indicated Abortions,” George Washington University School of Public Health and Health Services, November 16, 2009.

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The Stupak ban takes health benefits away from women that they have today — violating one of the core principles of health care reform.

- The Stupak ban is an unprecedented restriction on women's health access to abortion coverage. According to the Congressional Budget Office, within the first six years, 30 million individuals will purchase coverage through the Exchange, and it is only expected to grow. Increasingly, millions of women will see their private health insurance coverage erode if this dangerous policy is accepted.

The existing abortion compromise in the Senate Finance health care reform bill represents abortion neutrality in health care reform.

- The existing compromise in the Senate Finance health care reform bill represents a genuine compromise by pro-choice and pro-life members of Congress that prohibits federal funding of abortion but also allows women to pay for abortion coverage with their own private funds.
- In fact, a version of the Stupak ban, Senator Hatch's amendment C14, was defeated by the Senate Finance Committee, 13-10.

Members of Congress Must Oppose the Stupak Ban in the Final Health Care Reform Bill.